

# PHILADELPHIA MULTIFAMILY HOUSING HUB NEWS



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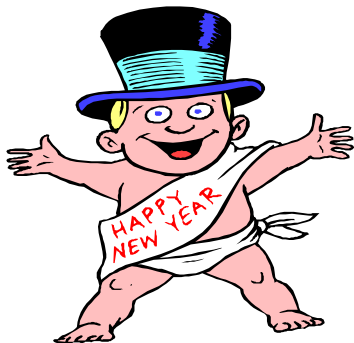
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[www.hud.gov/local/shared/working/r3/mfhsg.cfm?state=pa](http://www.hud.gov/local/shared/working/r3/mfhsg.cfm?state=pa)

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## OAHP Established

The Department of Housing and Urban Development (HUD) established a new office, the Office of Affordable Housing Preservation (OAHP) effective October 1, 2004. The Office of Affordable Housing Preservation was established to assure the smooth continuation of the Mark-to-Market program (M2M) utilizing authorities that continued after the legislative sunset of OMHAR on September 30, 2004. OAHP will also provide assistance to affordable housing areas in the oversight and preservation of a wide spectrum of affordable housing programs. OAHP will be charged with important projects and programs while continuing the success of the M2M program.



As with OMHAR, its predecessor, OAHP will continue to work with property owners, Participating Administrative Entities (PAEs), tenants, lenders, and others with a stake in the future of affordable housing.

## Loan Sale

A sale of unsubsidized and healthcare mortgage loans will be held in March 2005. A total of 52 loans will be offered for sale with a combined unpaid principal balance of \$388 million. Within the Philadelphia Hub, there will be 4 projects: Millennium Assisted Living Residence (NJ), Lemington Home for the Aged (PA), Green Meadow Apts. (PA), and Green Meadow Phase II.

## Top Multifamily Lenders

Ten multifamily lenders accounted for 575 FHA initial endorsements (85 new construction/rehab. and 490 refinances) in FY 04. These lenders were: GMAC Commercial Mortgage Corp.— 129; Greystone— 86; Highland Mortgage Co.— 79; Reilly Mortgage Group, Inc.— 76; Love Funding Corp.— 45; Prudential Huntoon Paige— 38; P-R Mortgage and Investment Corp.— 38; PNC Multifamily Capital, Inc.— 33; Red Mortgage Capital— 30; and CW Capital, LLC— 21.



## Revisions to Previous Participation

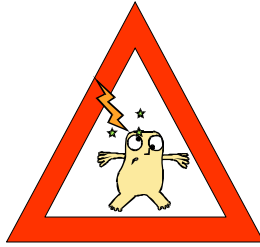
HUD's policy concerning the filing of HUD Form 2530, Previous Participation Certification, for limited liability companies and consultants has been clarified/revise.

Specifically, limited liability companies will now be treated as if they were limited partnerships. The "managing member" will be treated as a general partner and be required to file a previous participation certificate in all cases. Other members in the LLC will be treated as if they were limited partners (i.e., be required to file a certificate when they have a 25% or greater interest).

Also, all consultants who wish to participate during the financing and construction or rehabilitation of a project must apply for 2530 clearance. HUD field staff will also make a risk determination concerning the need of consultants, involved in capacities after the "traditional" development phase, to file 2530s. Exceptions will be consultants paid from funds other than operating income.

### **Exigent Health and Safety Hazards**

The most serious type of deficiencies noted on REAC physical inspections are exigent health and safety hazards. These hazards are so severe that they pose a serious risk to the tenants and must be corrected immediately.



Exigent health and safety deficiencies may take the form of any of the following eight hazards: propane/natural gas detected, exposed wires or an open electrical panel; water leaks on or near electrical equipment; blocked or unusable emergency fire exits; window security bars preventing exit; blocked fire escapes or ladders; missing gas-fired hot water heater/HVAC; and inoperative/missing smoke detectors.

Owners must advise HUD or its Performance-Based Contract Administrator, in writing within three business days of the date of the inspection, that the hazardous condition has been corrected.

### **RHIIP- Role of Owners/Agents**

Managers are on the front lines of efforts to make sure that rental assistance disbursements are correct. The cooperation and commitment of owners and managers is key to the success of the Rental Housing Integrity Improvement Program (RHIIP).



As an owner, management agent, or on-site manager, it is your responsibility to: know the rules and regulations governing how to determine income and calculate rent at your project; insure that all staff are trained on RHIIP requirements and how to apply them correctly; maintain HB 4350.3 Rev-1, Occupancy Requirements of Subsidized Multifamily Programs, and other relevant program information for reference; verify tenant information through third-party sources; conduct certifications and recertifications in a timely manner and submit all tenant certification data to the Tenant Rental Certification System (TRACS); maintain complete and comprehensive files on all assisted tenants and secure confidential data; establish quality control procedures to insure tenant data in files and HUD systems are correct; establish thorough interview procedures to identify all sources of income and other tenant information; cooperate fully in any reviews performed by HUD or

contract administrator staff; and contact your local contract administrator or HUD field office if you have any questions concerning income determination and rent calculation.

Each Program Center has Help Desk Coordinators to assist you and answer questions. Their names and telephone numbers are as follows:

Philadelphia— Carolyn Anastasi, 215-656-0609, X3553  
Pittsburgh— Mary Ann Budziszewski, 412-644-6393  
Newark— Nancy Bolster, 973-622-7900, X3427  
Charleston— Phyllis Ball, 304-347-7000, X119

For additional information, visit the RHIIP website at: [www.hud.gov/offices/hsg/mfh/rhiip/mfhrhiip.cfm](http://www.hud.gov/offices/hsg/mfh/rhiip/mfhrhiip.cfm).

### **REAC Notification**

A REAC inspector must notify the owner/agent not less than 15 days in advance to conduct a physical inspection. The inspection is scheduled for a mutually agreeable date and time. The inspector may not demand that the inspection be conducted on a date unacceptable to the owner.



During the preliminary telephone conversation, the inspector will: 1) Advise the owner that his representative must accompany the inspector at all times throughout the inspection; 2) Briefly explain the inspection process so the owner knows what to expect; and 3) Advise the owner that he must provide written notice to residents at least 15 days in advance that the inspection will take place and that their units may be inspected. The notice should cover a 3-5 day period surrounding the scheduled date in order to avoid having to provide additional notice for unexpected delays. It is not necessary that the resident be present during the inspection. Because the owner knows the property better than the inspector, he should advise the inspector if the length of time to perform the inspection seems reasonable. An inspection that carries beyond the inspection date and/or time is an inconvenience to both the owner and the resident.

The inspector, using a hand-held-collection device (DCD), will assess the condition of the site, exterior, building systems, common areas, and units. If at any time the owner believes the inspector is not following protocols or is behaving unprofessionally, he may call REAC at 888-245-4860 to request a new inspector.

### **Annual City Inspections**

City Council members voted to amend Camden, NJ's property maintenance code to establish annual inspections. To defray the cost, the city will assess landlords a fee of \$50 per inspection. In addition, another proposed change to the code will require landlords who live out of state to employ local management agents. Warren Sykes, the Assistant Director of Code Enforcement told council members the amendment signals to residents a new level of enforcement in the city.



### **Enforcement Center Referrals**



Under a protocol that was executed between Multifamily Housing and the Departmental Enforcement Center (DEC), on November 1, 2002, Multifamily Housing or the Real Estate Assessment Center (REAC) refers projects in unacceptable physical condition to the DEC. The DEC then contacts the owner and issues

a Notice of Regulatory Agreement Violation and, if the property is subsidized, a Notice of HAP Default, to demand corrective action.

In those cases where the ACC gives the CA or PBCA exclusive authority to issue a Notice of HAP Default, the DEC will prepare the document and forward it to the CA/PBCA for signature, copying the local HUD Program Center. The notice requires the owner to take the following corrective actions within 60 days of the date of receipt: 1) Conduct a survey identifying the physical deficiencies at the project; 2) Correct the physical deficiencies at the project, including, but not limited to, those deficiencies identified in the REAC inspection; and 3) Provide an enclosed certification along with the completed survey to the local HUD Program Center.

The notice will also advise the owner that the project will be re-inspected by REAC following the 60-day cure period. Upon re-inspection, if the physical inspection report reveals non-compliance with HUD's physical condition standards, the DEC will forward a recommendation to the local HUD Program Center that the CA/PBCA suspend, abate, or terminate the subsidy as allowed under the contract.

Once there is an open referral to the DEC, the CA/

PBCA will coordinate the following actions with the local HUD Program Center: 1) Management and Occupancy Reviews; 2) Adjustments of Contract Rents; 3) Renewal of HAP Contract; and 4) Follow-up on Results of Physical Inspections.

### **Analyzing Financial Statements**

A new Appendix 8D has been added to Mortgage Credit Underwriting and Processing Requirements in the MAP Guide detailing the correct way to analyze financial statements. See: [www.hud.gov/offices/hsg/mfh/map/mapguide/mapguide.cfm](http://www.hud.gov/offices/hsg/mfh/map/mapguide/mapguide.cfm).



### **Up-front Fees**

Community, endowment, founders, and up-front fees are prohibited in insured projects, unlike continuing care retirement communities which are not insured by HUD. This has been HUD's policy since the 1960s. It is based on the principle of fiduciary accountability- HUD does not want to be held answerable for monies the resident deposited as a condition of admittance. The Department's primary concern is the potential risk it would face if the borrower defaulted and the residents sued the facility to get the fees returned. To permit an owner to charge such fees is beyond the factors used in the mortgage insurance premium. It should be noted that HUD HB 4600.1 Chapter 2-1 (H)(2) and the MAP Guide, Chapter 3(E) state that facilities that charge such fees are ineligible under Section 232.



Under Section 221 or 231, however, an owner may charge a security deposit, which is typically one month's rent. There are also provisions in the Regulatory Agreement that permit a prepayment of one month's rent plus a security deposit not to exceed one month's rent. Security deposits are not needed in Section 232 projects because the resident signs an admission and resides in the facility as long as finances, health, and licensure requirements permit.

### **Newsletter Feedback**

Your comments or suggestions are welcome. Please send them to: [Thomas\\_Langston@hud.gov](mailto:Thomas_Langston@hud.gov).

### **Northern New Jersey Market**

In the November/December 2004 issue of Apartment Finance Today, it was stated that vacancies will continue to rise in the Northeast, in 2005, as the growth of inventories (1.3%) outpaces the national rate of <1%.



In northern New Jersey, occupancy rates are projected at 95.7% (previously were 98% in 2000) with 2,300 multifamily starts.

### **Notice H2004-24**

Notice H2004-24, "Income Calculation and Verification Guidance regarding Medicare Prescription Drug Cards and Transitional Assistance" was issued on November 10, 2004. It supplements the verification guidance in Notice PIH 2004-01



that was issued in March 2004 and discussed in the September 2004 issue of Multifamily Hub News. It provides guidance to Project Owners and Management Agents in determining annual and adjusted income in HUD's assisted housing programs under the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA), Public Law 108-173

Until the new Medicare drug benefit becomes available in 2006, the MMA provides for the issuance of prescription drug discount cards and transitional prescription drug assistance for Medicare beneficiaries who meet the eligibility criteria.

The prescription drug discount card provides Medicare beneficiaries with access to negotiated prices that should be lower than the undiscounted price of prescription drugs. In addition to the prescription drug discount card, from June through December 2004, Medicare provided, through the drug discount cards, a \$600 subsidy (transitional assistance) to Medicare beneficiaries whose incomes were not more than 135% of the poverty line and who did not have certain other drug coverage. The unused portion of the \$600 credit in 2004 will rollover to 2005. There will be a subsidy of up to \$600 in 2005, in addition to any rollover.

In calculating annual income for a family, any assistance or benefit received from the Medicare prescription discount card or the transitional assistance must be excluded as annual income for the purpose of

calculating any rent or assistance.

The Medicare prescription drug discount cards and transitional assistance received by a family must be treated as a standard medical deduction when determining the family's medical expense deduction. In this way, families using the prescription drug discount card or receiving transitional assistance will continue to receive a medical deduction for the full cost of the prescription drugs prior to receiving these benefits.

The standard medical deduction as described at 24 CFR 5.611(a)(3) continues to be the sum of allowable medical expenses that exceed 3% of annual income. Where all or part of the cost for prescription drugs is covered by the Medicare prescription drug discount or transitional assistance, neither the drug discount nor the transitional assistance should be considered a reimbursement for the purpose of calculating the medical expense deduction.

To limit the number of retroactive adjustments when calculating rent or assistance, Owners and Management Agents must: exclude from annual income the \$600 transitional assistance subsidy, for applicants and tenants enrolled in the Medicare transitional assistance program, effective the date of receiving the benefits; exclude from annual income any negotiated drug discount pursuant to the Medicare prescription drug discount card; and in cases where medical expenses are normally deducted from a HUD participant's income, include as a medical deduction the Medicare assistance provided for the cost of drugs pursuant to prescription drug discount cards, negotiated drug price, or transitional assistance subsidies.

Owners and Management Agents must verify that the tenant has a Medicare-approved drug discount card. They must also verify the amount the individual would have had to pay for each prescription in absence of the negotiated discount provided by the Medicare-approved drug discount card or any payments made by the \$600 transitional assistance credit. Verification must also include a determination that the prescription drug is eligible for the discount since not all drugs are eligible. Owners and Management Agents must use third party verification when possible or document in the file why such third party verification was not available.

For more detailed information on how to implement the MMA Act, you should download a copy of Notice H2004-24 at: [www.hudclips.gov](http://www.hudclips.gov). It is also recommended that you visit the following websites: [www.medicare.gov](http://www.medicare.gov), and [www.cms.hhs.gov/media/press/release.asp?Counter=990](http://www.cms.hhs.gov/media/press/release.asp?Counter=990).